

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND DIVISION**

TEXAS CAMPAIGN FOR THE
ENVIRONMENT
3903 S. Congress Ave, Box 42278,
Austin, TX 78704,

ENVIRONMENT AMERICA, INC.
d/b/a ENVIRONMENT TEXAS
200 E 30th Street
Austin, TX 78705,

SIERRA CLUB
2101 Webster Street, Suite 1300
Oakland, CA 94612,

Plaintiffs,

v.

DCP OPERATING COMPANY, LP
10 Desta Drive, Suite 400W
Midland, Texas 79705-4528

Defendant.

Civil Action No. 7:21-cv-00048

COMPLAINT

INTRODUCTION

1. This is a citizen suit under the federal Clean Air Act (“Act”) to redress and prevent ongoing air pollution violations at the DCP Operating Company LP’s (“DCP”) Goldsmith Gas Plant (the “Plant”), in Ector County, Texas.

2. DCP has released and continues to release quantities of air pollution from the Plant far in excess of legal limits. For the past five years the Plant has consistently been among the worst performing facilities in Texas, both by frequency of air pollution violations and by amount

of illegal pollution emitted. A majority of DCP's pollution releases stem from one or more of the Plant's flares.

3. DCP has permits issued by the Texas Commission on Environmental Quality ("TCEQ"), the state agency authorized to implement various permitting requirements of the federal Clean Air Act, that authorize the releases of pollutants, or "emissions," from the Plant. These permits are issued pursuant to the Act and the state laws and regulations implementing the federal Act. The terms and conditions of these permits are designed to protect public health.

4. Based on DCP's reports to the Texas Commission on Environmental Quality, the Plant is far exceeding its permitted limits for harmful sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide.

5. Since January of 2016, DCP has reported at least 289 emission events to TCEQ in which it violated one or more emission limits in one or more of its permits. DCP reported more emission events than 99.7% of facilities reporting to TCEQ. DCP reported emissions of at least 6,695,265 pounds of air pollutants during these emission events, more unauthorized pollution than 99.6% of facilities reporting to TCEQ.

6. DCP has a history of such violations that extends back before the applicable statute of limitations period in this case. The statute of limitations period begins on December 21, 2015, five years prior to service of the pre-suit notice. Plaintiffs intend this action to encompass post-Complaint violations of the types alleged.

7. Neither the federal government nor the state of Texas has taken enforcement action or other regulatory action sufficient to prevent DCP's Goldsmith Gas Plant from continuing to be in violation of the Act.

8. DCP has repeatedly violated and is still violating its air pollution permits as well

as the Act, and it will continue to release illegal pollution into the air absent relief from this Court.

THE CITIZEN SUIT PROVISION OF THE CLEAN AIR ACT

9. Congress declared that the purpose of the Clean Air Act is “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

10. In the Act’s “citizen suit” provision, Congress authorized any person to commence a civil action against any person who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of an “emission standard or limitation.” 42 U.S.C. § 7604(a)(1).

11. An “emission standard or limitation” is:

- a. “any permit term or condition,” (42 U.S.C. § 7604(f)(4));
- b. “any other standard [or] limitation . . . established under any . . . applicable State Implementation Plan,” (42 U.S.C. § 7604(f)(4));
- c. any “emission limitation, standard of performance or emission standard . . . which is in effect under this chapter,” (42 U.S.C. § 7604(f)(1)); and
- d. “any condition or requirement of a permit under part C of subchapter I of this chapter (relating to significant deterioration of air quality) or part D of subchapter I of this chapter (relating to nonattainment).” (42 U.S.C. § 7604(f)(3)).

12. Under the Clean Air Act, a State Implementation Plan (“Plan”) is the set of state laws and regulations by which a state – in this case Texas – implements the requirements of the federal Act. The United States Environmental Protection Agency (“EPA”) oversees approval of the state Plan which must meet various EPA standards to protect human health and the

environment. 42 U.S.C. §§ 7471-7475.

13. Texas has an EPA-approved Plan, and TCEQ is the agency tasked with issuing permits and implementing other federal Act or EPA requirements.

14. Upon EPA approval, Texas' Plan requirements are federally enforceable under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. § 52.23. In addition, as part of Texas' obligations under its EPA-approved Plan, the TCEQ issues the permits that are required for stationary industrial sources of air pollution, such as the Goldsmith Gas Plant, to control the amount of air pollution emissions to meet the Act's Prevention of Significant Deterioration ("PSD") program, Part C of Subchapter I of the Act, 42 U.S.C. §§ 7474-7492, and New Source Review ("NSR") program, Part D of Subchapter I of the Act, 42 U.S.C. §§ 7501-7515.

15. The Act's citizen suit provision gives the United States District Courts jurisdiction to enforce emission standards and limitations. 42 U.S.C. § 7604(a).

PARTIES

Texas Campaign for the Environment, Environment Texas, and Sierra Club

16. Plaintiffs are three non-profit environmental organizations bringing this suit on behalf of their individual members who are adversely affected by the Plant's illegal, unauthorized, and excessive emissions of harmful air pollutants including sulfur dioxide, hydrogen sulfide, nitrogen oxides, carbon monoxide, and volatile organic compounds. The chronic and ongoing releases of air pollution far in excess of the Plant's allowable limits has deleterious impacts on public health and the environment in the areas where Plaintiffs' members live, work, and recreate.

17. Plaintiff Texas Campaign for the Environment, a Texas non-profit corporation with offices in Austin, Houston, and Dallas, fights pollution through grassroots organizing campaigns

across Texas that improve corporate and governmental anti-pollution policies. Texas Campaign for the Environment members are harmed by the illegal air pollution from the Goldsmith Gas Plant.

18. Plaintiff Environment America, Inc., a Colorado non-profit corporation that in Texas does business as Environment Texas, advocates for clean air, clean water, and the preservation of Texas' natural resources. Among other activities in pursuit of these goals, Environment Texas researches and distributes analytical reports on environmental issues, advocates before legislative and administrative bodies, engages in litigation, and conducts public education programs. Environment Texas members are harmed by the illegal air pollution from the Plant.

19. Sierra Club, a California non-profit corporation with an office in Austin, is the nation's oldest conservation organization. The Sierra Club's state and local chapters include thousands of Texas members who are dedicated to exploring, enjoying, and protecting Texas' natural resources and wild places. Sierra Club promotes the responsible use of the Earth's ecosystem and resources, and works to restore the quality of the natural and human environment. In addition to organizing nature outings and public education campaigns, Sierra Club and its Texas members pursue advocacy and litigation on issues including clean air and clean water, solid waste reduction, and sustainable energy and land use policies. Sierra Club members are harmed by the illegal air pollution from the Goldsmith Gas Plant.

20. Plaintiffs are corporations and thus "persons" under the Act. 42 U.S.C. § 7602(e).

DCP Operating Company, LP.

21. DCP is a corporation and thus a "person" under the Act. 42 U.S.C. § 7602(e).

- 22. DCP owns and operates the Goldsmith Gas Plant.
- 23. DCP is a subsidiary of DCP Midstream, LP.

JURISDICTION, VENUE AND NOTICE

24. This Court has jurisdiction over the subject matter of this action pursuant to section 304(a) of the Act, 42 U.S.C. § 7604(a), and pursuant to 28 U.S.C. § 1331.

25. The citizen suit provision of the Act grants jurisdiction to the United States District Courts to enforce Clean Air Act emission standards and limitations, to issue an injunction remedying violations of the Act, and to impose appropriate civil penalties, and authorizes an award of costs of litigation. 42 U.S.C. §§ 7604(a)(3), 7604(d).

26. Pursuant to 28 U.S.C. § 2201(a) this Court may issue a declaratory judgment determining that DCP has violated its permits and the Clean Air Act, and determining the number of violations DCP has committed.

27. Venue lies in this District pursuant to section 304(c)(1) of the Act, 42 U.S.C. § 7604(c)(1), because the Plant is a stationary source, or a collection of stationary sources, located within this District.

28. On December 21, 2020, counsel for Plaintiffs mailed a letter (the “Notice Letter”) by certified mail, return receipt requested, to DCP at its registered address. A copy of the Notice Letter is attached as Exhibit 1. The Notice Letter is incorporated by reference herein.

29. DCP received the Notice Letter. A copy of the return receipt for DCP is in Exhibit 2, attached hereto.

30. On December 21, 2020, counsel for Plaintiffs mailed a copy of the Notice Letter by certified mail, return receipt requested, to CT Corporation System, the registered agent for

DCP in Texas. CT Corporation System received the Notice Letter. A copy of the return receipt for CT Corporation System is in Exhibit 2.

31. On December 21, 2020, counsel for Plaintiffs mailed a copy of the Notice Letter by certified mail, return receipt requested, to Andrew Wheeler, Administrator of the United States EPA. A copy of the return receipt for EPA is in Exhibit 2.

32. On December 21, 2020, counsel for Plaintiffs mailed a copy of the Notice Letter by certified mail, return receipt requested, to Ken McQueen, Regional Administrator for EPA Region VI. A copy of the return receipt for the Regional Administrator of EPA Region VI is in Exhibit 2.

33. EPA did not communicate with Plaintiffs regarding the Notice Letter prior to the filing of this Complaint.

34. On December 21, 2020, counsel for Plaintiffs mailed a copy of the Notice Letter by certified mail, return receipt requested, to the Governor of Texas, Greg Abbott. A copy of the return receipt for Mr. Abbott is in Exhibit 2.

35. Neither Mr. Abbott nor his office communicated with Plaintiffs regarding the Notice Letter prior to the filing of this Complaint.

36. On December 21, 2020, counsel for Plaintiffs mailed a copy of the Notice Letter by certified mail, return receipt requested, to Toby Baker, Executive Director of the TCEQ. A copy of the return receipt for Mr. Baker is in Exhibit 2.

37. On December 21, 2020, counsel for Plaintiffs mailed a copy of the Notice Letter by certified mail, return receipt requested, to Jon Niermann, Chairman of the TCEQ. A copy of the return receipt for Mr. Niermann is in Exhibit 2.

38. TCEQ did not communicate with Plaintiffs regarding the Notice Letter prior to the

filing of this Complaint.

39. The Notice Letter satisfies the pre-suit notice requirements of the Act, as set forth in 42 U.S.C. § 7604(b).

40. As of the date of the filing of this Complaint, neither EPA nor TCEQ has commenced a civil action against DCP in court to enforce any of the emission standards or limitations that Plaintiffs allege are being violated at the Plant.

41. At or around the time this Complaint was filed, Plaintiffs served a copy of it on the U.S. Attorney General and the Administrator of EPA, pursuant to 42 U.S.C. § 7604(c).

THE PLANT

42. The Goldsmith Gas Plant, located at 1600 West Highway 158, Goldsmith, Ector County, Texas is a cryogenic gas processing plant.

43. The Plant accepts field natural gas from wells in the area where the plant is located and then compresses it.

44. The Plant is capable of treating and processing field natural gas containing high levels of hydrogen sulfide and carbon dioxide, known as “sour gas.”

45. The Plant uses chemicals called amines to absorb the hydrogen sulfide and carbon dioxide out of the field natural gas.

46. The resulting amine solution is termed “rich.”

47. The Plant reuses the amine chemicals, and to do so, they heat the rich amine solution in a “regenerator” to strip out the hydrogen sulfide and carbon dioxide.

48. Stripped out hydrogen sulfide and carbon dioxide is known as “acid gas.”

49. When the Plant is working properly, stripped-out acid gas is compressed and

disposed of by being routed through pollution controls including a Sulfur Recovery Unit and a Tail Gas Incinerator.

50. Once acid gas has been stripped from the field natural gas, the remaining gas, is termed “sweet.”

51. The Plant then further processes the remaining sweet gas to separate out lighter natural gas from heavier hydrocarbons. The sweet natural gas is then shipped out of the plant via pipeline, while the heavier hydrocarbons, called natural gas liquids, are stored in pressurized tanks and removed via truck or pipeline.

52. When the Sulfur Recovery Unit is down for maintenance, and during periods of plant startups and shutdowns, acid gas is routed to one or more of the Plant’s flares. Flares burn the acid gas, which converts hydrogen sulfide to sulfur dioxide. Sulfur dioxide and unconverted hydrogen sulfide are released into the atmosphere, along with additional pollutants created by the burning of acid gas, including nitrogen oxides, volatile organic compounds, and carbon monoxide.

THE PLANT’S AIR POLLUTION PERMITS

53. TCEQ issued permits to DCP that authorize the Plant to operate and to emit certain regulated pollutants.

54. These permits limit the amounts of pollutants that DCP is allowed to emit from the Plant.

55. Violations of DCP’s permits constitute violations of the Act.

56. TCEQ issued permits to DCP that specify the sources from which authorized pollutants may lawfully be emitted from the Plant, as well as the maximum rates – in terms of pounds of pollution per hour, and tons of pollution per year – at which the Plant may release

these pollutants. These permits also contain many other operating limits, reporting and monitoring requirements, and various conditions that are designed to constrain emissions of air pollutants, promote compliance, and protect public health. The Goldsmith Gas Plant is required to comply with all its permit limits. This lawsuit involves violations of only a fraction of the Plant's many permit limits.

Permit 676A/PSD-TX-1246

57. Permit No. 676/PSD-TX-1246 authorizes emissions of certain pollutants from multiple sources at the Goldsmith Gas Plant, including these four points: the Plant's Acid Gas Flare; the Plant's Upset Flare; the Plant's Residue Compression Flare; and the Plant's Tail Gas Incinerator.

58. The "PSD" in the Permit designation indicates that it is issued pursuant to the Act's Prevention of Significant Deterioration standards, such that the emission limits are capped at levels below which TCEQ has determined the emissions will not significantly deteriorate air quality.

59. DCP understands that it is obligated to comply with the terms of Permit 676A/PSD-TX-1246.

60. Permit 676A/PSD-TX-1246 limits the number of pounds of sulfur dioxide ("SO₂"), hydrogen sulfide ("H₂S"), nitrogen oxides ("NO_x"), volatile organic compounds ("VOC"), and carbon monoxide ("CO") permitted to be emitted per hour from the Plant's Acid Gas Flare, Upset Flare, Residue Compression Flare, and Tail Gas Incinerator. These are emission limits that must be met on an hourly basis.

61. Permit 676A/PSD-TX-1246 limits the number of tons of sulfur dioxide and

hydrogen sulfide permitted to be emitted per year from the Plant's Acid Gas Flare, Upset Flare, Residue Compression Flare, and Tail Gas Incinerator. These are emission limits that must be met on an annual basis.

62. The hourly (pounds per hour) and the annual (tons per year) limits on emissions of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the Plant's Acid Gas Flare, Upset Flare, Residue Compression Flare, and Tail Gas Incinerator are set forth in the "Emissions Sources - Maximum Allowable Emission Rate" table contained in Permit 676A/PSD-TX-1246.

63. Emission limits for the Acid Gas Flare routine emissions authorized by Permit 676A/PSD-TX-1246 beginning March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	0.01	0.01
H ₂ S	0.01	0.01
NO _x	0.04	0.17
VOC	0.01	0.01
CO	0.08	0.34

64. Emission limits for the Acid Gas Flare routine emissions authorized by Permit 676A/PSD-TX-1246 prior to March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	0.01	0.01
H ₂ S	0.00	0.00
NO _x	0.01	0.03
VOC	0.01	0.01
CO	0.02	0.1

65. Emission limits for the Acid Gas Flare planned maintenance, startup, and shutdown emissions authorized by Permit 676A/PSD-TX-1246 beginning March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	6792.00	6.79
H ₂ S	72.17	0.07
NO _x	2.88	0.01
VOC	0.20	0.01
CO	8.17	0.01

66. Emission limits for the Tail Gas Incinerator routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 676A/PSD-TX-1246:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	481.7	1521.8
H ₂ S	3.77	16.5
NO _x	2.88	12.61
VOC	0.2	0.87
CO	8.17	35.79

67. Emission limits for the Residue Compression Flare routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 676A/PSD-TX-1246 beginning March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	0.01	0.01
H ₂ S	0.01	0.01
NO _x	422.44	12.82
VOC	10.05	0.31
CO	843.35	25.6

68. Emission limits for the Upset Flare routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 676A/PSD-TX-1246, beginning March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	3513.5	52.7
H ₂ S	38.18	0.57
NO _x	64.28	1.01
VOC	381	5.71
CO	464.31	7.16

69. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 limits the total number of hours of operation of the Upset Flare to no more than thirty hours per calendar year.

70. DCP operates the Plant with the understanding that the total emission of air contaminants from the sources of emissions listed in Permit 676A/PSD-TX-1246's Maximum Allowable Emission Rate table must not exceed the values stated on that table.

71. DCP makes a record of sulfur dioxide, hydrogen sulfide, nitrogen oxide, volatile organic compound, and carbon monoxide emissions that exceed the limits in Permit 676A/PSD-TX-1246's Maximum Allowable Emission Rate table, to the extent DCP is aware of such emissions.

72. Each of the emission limits, including the operational limit on number of hours of flare operation, in Permit 676A/PSD-TX-1246 described above is an emission standard or limitation and a permit term or condition.

73. A violation of Permit 676A/PSD-TX-1246 is a violation of the Act.

Permit 73563

74. TCEQ issued Air Quality Permit 73563 to DCP ("Permit 73563"), authorizing operation of and emissions from the Plant's Residue Compression Flare.

75. DCP understands that it is obligated to comply with the terms of Permit 73563.

76. Permit 73563 limits the number of pounds of sulfur dioxide, hydrogen sulfide,

nitrogen oxides, volatile organic compounds, and carbon monoxide permitted to be emitted per hour from the Plant's Residue Compression Flare.

77. Permit 73563 limits the number of tons of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide permitted to be emitted per year from the Plant's Residue Compression Flare.

78. The hourly (pounds per hour) and the annual (tons per year) limits on emissions of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the Plant's Residue Compression Flare are set forth in the "Emissions Sources - Maximum Allowable Emission Rate" table contained in Permit 73563.

79. Emission limits for the Residue Compression Flare routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 73563:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	0.01	0.01
H ₂ S	0.01	0.01
NO _x	422.44	12.82
VOC	10.05	0.31
CO	843.35	25.6

80. DCP operates the Plant with the understanding that the total emission of air contaminants from the sources of emissions listed in Permit 73563's Maximum Allowable Emission Rate table must not exceed the values stated on that table.

81. DCP makes a record of sulfur dioxide, hydrogen sulfide, nitrogen oxide, volatile organic compound, and carbon monoxide emissions that exceed the limits in Permit 73563's Maximum Allowable Emission Rate table, to the extent DCP is aware of such emissions.

82. Each of the emission limits in Permit 73563 described above is an emission standard or limitation.

83. Each of the emission limits in Permit 73563 described above is a permit term or condition.

84. A violation of Permit 73563 is a violation of the Act.

Permit 54944

85. TCEQ issued Air Quality Permit 54944 (“Permit 54944”) to authorize emissions of certain pollutants from the Plant’s Acid Gas Flare and Upset Flare during periods of planned startup, shutdown and maintenance.

86. DCP understands that it is obligated to comply with the terms of Permit 54944.

87. Permit 54944 limits the number of pounds of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide permitted to be emitted per hour from the Plant’s Acid Gas Flare and Upset Flare during defined periods of maintenance, startup, and shutdown.

88. Permit 54944 limits the number of tons of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide permitted to be emitted per year from the Plant’s Acid Gas Flare and Upset Flare during defined periods of maintenance, startup, and shutdown.

89. The hourly (pounds per hour) and the annual (tons per year) limits on emissions of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide from the Plant’s Acid Gas Flare and Upset Flare are set forth in the “Emissions Sources - Maximum Allowable Emission Rate table” contained in the “Certified Emission Rates” table contained in Permit 54944.

90. Emission limits for the Acid Gas Flare during planned maintenance, startup, and

shutdown emissions authorized by Permit 54944 prior to March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	6792.00	6.79
H ₂ S	72.17	0.07
NO _x	2.88	0.01
VOC	0.20	0.01
CO	8.17	0.01

91. Emission limits for the Upset Flare during planned maintenance, startup, and shutdown emissions authorized by Permit 54944 prior to March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	3431.62	2.58
H ₂ S	36.42	0.03
NO _x	365.17	0.37
VOC	784.52	0.9
CO	1454.3	1.47

92. DCP operates the Plant with the understanding that the total emission of air contaminants from the sources of emissions listed in Permit 54944's Certified Emission Rates table must not exceed the values stated on that table.

93. DCP makes a record of sulfur dioxide, hydrogen sulfide, nitrogen oxide, volatile organic compound, and carbon monoxide emissions that exceed the limits in Permit 54944's Certified Emission Rates table, to the extent DCP is aware of such emissions.

94. Each of the emission limits in Permit 54944 described above is an emission standard or limitation.

95. Each of the emission limits in Permit 54944 described above is a permit term or condition.

96. A violation of Permit 54944 is a violation of the Act.

Permit 76810

97. TCEQ issued Air Quality Permit 76810 to DCP (“Permit 76810”).

98. DCP understands that it is obligated to comply with the terms of Permit 76810.

99. Permit 76810 limits the number of pounds of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide permitted to be emitted per hour from the Plant’s Upset Flare.

100. Permit 76810 limits the number of tons of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide permitted to be emitted per year from the Plant’s Upset Flare.

101. The hourly and annual limits on emissions of sulfur dioxide, hydrogen sulfide, nitrogen oxides, volatile organic compounds, and carbon monoxide to be emitted from the Plant’s Upset Flare are set forth in the “Standard Permit Maximum Emission Rates Table” contained in Permit 76810.

102. Emission limits for the Upset Flare routine emissions and planned maintenance, startup, and shutdown emissions authorized by Permit 76810, prior to March 29, 2019:

Pollutant	Hourly (lbs/hr)	Annual (tpy)
SO ₂	2591	38.87
H ₂ S	28.1	0.42
NO _x	96.5	1.47
VOC	381	5.71
CO	525	7.89

103. Prior to March 29, 2019, Permit 76810 limits the total number of hours of operation of the Upset Flare to no more than thirty hours per calendar year.

104. DCP operates the Plant with the understanding that the total emission of air

contaminants from the sources of emissions listed in Permit 76810's Standard Permit Maximum Emission Rate Table must not exceed the values stated on that table.

105. DCP makes a record of sulfur dioxide, hydrogen sulfide, nitrogen oxide, volatile organic compound, and carbon monoxide emissions that exceed the limits in Permit 76810's Standard Permit Maximum Emission Rate table, to the extent DCP is aware of such emissions.

106. Each of the emission limits, including the limit on hours of operation, in Permit 76810 described above is an emission standard or limitation, as well as a permit term or condition.

107. A violation of Permit 76810 is a violation of the Act.

ADVERSE EFFECTS OF POLLUTANTS EMITTED BY THE PLANT

Sulfur dioxide

108. Sulfur dioxide is a colorless air pollutant with a pungent odor.

109. Exposure to airborne sulfur dioxide can cause respiratory irritation and other adverse effects on breathing, including sore throat, wheezing, shortness of breath, chest tightness, and a feeling of suffocation.

110. Children, the elderly, and people with asthma, cardiovascular disease, or chronic lung disease are particularly susceptible to the adverse health effects of sulfur dioxide.

111. Sulfur dioxide can react with other compounds in the atmosphere to form fine particles (also known as haze) that reduce visibility.

Hydrogen Sulfide

112. Hydrogen sulfide is a flammable, colorless gas that smells like rotten eggs.

113. Exposure to high levels of hydrogen sulfide can cause death in just a few breaths.

Exposure to lower levels of hydrogen sulfide can cause eye irritation, headache, and fatigue.

Nitrogen oxides

114. Exposure to nitrogen oxides can irritate airways in the human respiratory system and aggravate respiratory diseases, particularly asthma, leading to respiratory symptoms such as coughing, wheezing, or difficulty breathing.

115. Nitrogen oxides are a key component in the formation of ground-level ozone, also known as smog. Breathing ground-level ozone can trigger a variety of health problems, including chest pain, coughing, throat irritation, and airway inflammation.

Volatile organic compounds

116. Exposure to volatile organic compounds can cause eye, nose and throat irritation, headaches, loss of coordination and nausea. Some volatile organic compounds are carcinogenic.

117. Volatile organic compounds are a key component in the formation of ground-level ozone, also called smog. Breathing ground-level ozone can trigger a variety of health problems, including chest pain, coughing, throat irritation, and airway inflammation.

Carbon monoxide

118. Exposure to lower levels of carbon monoxide is most serious for those who suffer from heart disease, and can cause chest pain, reduce the ability to exercise, or, with repeated exposures, may contribute to other cardiovascular effects.

119. Exposure to high levels of carbon monoxide can cause vision problems, reduced ability to work or learn, reduced manual dexterity, and difficulty performing complex tasks.

DCP'S SELF-REPORTED EMISSIONS

Reportable Emission Events

120. DCP submits electronic reports to the TCEQ each time the Goldsmith Gas Plant experiences an event that results in the release of unauthorized emissions above a prescribed reportable quantity.

121. DCP is required to file an initial incident report within 24 hours of an emission event.

122. DCP can amend an initial report within two weeks of the filing of the initial report. Such an amended report is a “final” report. If DCP does not amend an initial report, the initial report becomes a final report after two weeks.

123. Each incident is assigned a TCEQ tracking number once DCP submits a report.

124. DCP's emission event incident reports include information on the following:

- a. The date and time the emission event began.
- b. The date and time the emission event ended.
- c. The cause of the emission event.
- d. The action taken by DCP as a result of the emission event.
- e. The emissions estimation method used to calculate the amount of emissions being reported.
- f. The source(s) of emissions that occurred as a result of the emission event, identified by name and Emission Point Number (“EPN”).
- g. The contaminants emitted as a result of the emission event, separated by source.
- h. The amounts of each contaminant emitted during the emission event, separated by emission source.

125. Appendix A, Table 2 of the Notice Letter contains information DCP provided to TCEQ in its emission event incident reports. *See* Exhibit 1.

126. DCP has reviewed Appendix A of the Notice Letter.

127. Prior to the date this Complaint was filed, DCP did not inform Plaintiffs that any of the information in Appendix A of the Notice Letter is incorrect.

128. Additional information from DCP's emission event incident reports submitted after December 21, 2020 is included in Exhibit 3.

129. Information from DCP's emission event incident reports regarding each of the emission events referenced in Appendix A of the Notice Letter and in Exhibit 3 has been posted on TCEQ's website and is available to the public.

130. Every reportable emission event involves an emission of one or more air pollutants in an amount that was not authorized by any permit or regulation. Tex. Health & safety Code § 382.0215(a)(1); 30 Tex. Admin. Code §§ 101.1(28) & 101.1(108).

COUNT I: VIOLATIONS OF SULFUR DIOXIDE EMISSION LIMITS

131. Paragraphs 1 through 130 are re-alleged and incorporated by reference herein.

I.a. Violations of the Acid Gas Flare Sulfur Dioxide Annual Limit

132. Prior to March 29, 2019, Permit No. 54944 prohibits sulfur dioxide emissions from the Acid Gas Flare that exceed 6.79 tons per calendar year during periods of maintenance, startup, and shutdown.

133. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits sulfur dioxide emissions from the Acid Gas Flare that exceed 6.79 tons per calendar year during periods of

maintenance, startup, and shutdown.

134. Permit 676A/PSD-TX-1246 prohibits sulfur dioxide emissions from the Acid Gas Flare that exceed 0.01 tons per calendar year during routine operations.

135. Based on DCP's emission event reports, the Plant emitted sulfur dioxide in excess of 6.79 tons per year from the Acid Gas Flare in 2016, 2017, 2018, 2019, and 2020.

136. The sum of annual sulfur dioxide emissions DCP reported from the Acid Gas Flare in each of these years is:

Year	Permit Limit in Tons	Total Tons Emitted
2016	6.79	162.45
2017	6.79	75.76
2018	6.79	301.28
2019	6.79	1,005.38
2020	6.79	251.49

137. DCP violated Permits 54944 and 676A/PSD-TX-1246 when it exceeded the Acid Gas Flare sulfur dioxide annual emission limit specified in each of these permits.

138. DCP will continue to exceed the Acid Gas Flare sulfur dioxide annual emission limit after the date this Complaint is filed.

139. Each day on which DCP is in violation of the Acid Gas Flare sulfur dioxide annual emission limit is a separate day of violation under the Act.

140. DCP has violated the Acid Gas Flare sulfur dioxide annual emission limit for at least 1,774 days since January 1, 2016.

I.b. Violations of the Acid Gas Flare Sulfur Dioxide Hourly Limit

141. Prior to March 29, 2019, Permit 54944 prohibits sulfur dioxide emissions from the Acid Gas Flare that exceed 6,792 pounds per hour during periods of maintenance, startup,

and shutdown.

142. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits sulfur dioxide emissions from the Acid Gas Flare that exceed 6,792 pounds per hour during periods of maintenance, startup, and shutdown.

143. Permit 676A/PSD-TX-1246 prohibits sulfur dioxide emissions from the Acid Gas Flare that exceed 0.01 pounds per hour during routine operations.

144. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted sulfur dioxide from the Acid Gas Flare at an emission rate greater than 6792.00 pounds per hour for a total of 103 hours.

145. The dates and times of the violations of the sulfur dioxide hourly emission limit of the Acid Gas Flare are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

146. The dates and times of the violations of the sulfur dioxide hourly emission limit for the Acid Gas Flare after December 21, 2020 are listed in Exhibit 3.

147. DCP violated Permits 54944 and PSD-TX-1246 when it emitted sulfur dioxide from the Acid Gas Flare during the hours identified in this Count.

148. Each hour during which DCP is in violation of the Acid Gas Flare sulfur dioxide hourly limit in Permits 54944 and/or PSD-TX-1246 is a separate violation under the Act.

149. DCP has violated the Acid Gas Flare sulfur dioxide hourly limit at least 103 times since January 1, 2016.

I.c. Violations of the Upset Flare Sulfur Dioxide Annual Limit

150. Prior to March 29, 2019, Permit 76810 prohibits sulfur dioxide emissions from the Upset Flare that exceed 38.87 tons per calendar year.

151. Prior to March 29, 2019, Permit 54944 prohibits sulfur dioxide emissions from the Upset Flare that exceed 2.58 tons per calendar year.

152. Based on DCP's emission events reports, the Plant emitted more than 38.87 tons of sulfur dioxide from the Upset Flare in 2017 and 2018.

153. The sum of annual sulfur dioxide emissions DCP reported from the Upset Flare in 2017 is 71.21 tons.

154. The sum of annual sulfur dioxide emissions DCP reported from the Upset Flare in 2018 is 45.61 tons.

155. DCP violated Permits 76810 and 54944 when it exceeded the Upset Flare sulfur dioxide annual emission limit specified in Permits 76810 and 54944.

156. Each day on which DCP is in violation of the Upset Flare sulfur dioxide annual emission limit is a separate day of violation under the Act.

157. DCP has violated the Upset Flare sulfur dioxide annual emission limit for at least 223 days since January 1, 2016.

I.d. Violations of the Residue Compression Flare Sulfur Dioxide Annual Limit

158. Permit 73563 prohibits sulfur dioxide emissions from the Residue Compression Flare that exceed 0.01 tons per year, calculated by rolling 12-month period.

159. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits sulfur dioxide emissions from the Residue Compression Flare that exceed 0.01 tons per year, calculated by rolling 12-month period.

160. Based on DCP's emission events reports, the Plant emitted more than 0.01 tons of sulfur dioxide from the Residue Compression Flare per year for every rolling 12-month period

beginning January 2016.

161. The rolling 12-month totals, in pounds and in tons, of sulfur dioxide emitted from the Residue Compression Flare are detailed in Appendix A, Table 1 of the Notice Letter. Exhibit 1.

162. The rolling 12-month totals, in pounds and in tons, of sulfur dioxide emitted from the Residue Compression Flare after December 21, 2020 are detailed in Exhibit 3.

163. Between January 2016 and March 2021, the rolling 12-month total of sulfur dioxide emitted from the Residue Compression Flare varied from a low of 18.97 tons in January 2016 to a high of 287.33 tons in August 2017.

164. DCP violated Permits 73563 and 676A/PSD-TX-1246 when it exceeded the Residue Compression Flare sulfur dioxide annual emission limit in those permits.

165. DCP will continue to exceed the Residue Compression Flare sulfur dioxide annual emission limit in Permits 73563 and 676A/PSD-TX-1246 after the date this Complaint is filed.

166. Each day on which DCP is in violation of the Residue Compression Flare sulfur dioxide annual emission limit in Permits 73563 and 676A/PSD-TX-1246 is a separate day of violation under the Act.

167. DCP has violated the Residue Compression Flare sulfur dioxide annual emission limit for at least 1,915 days since January 1, 2016.

I.e. Violations of the Residue Compression Flare Sulfur Dioxide Hourly Limit

168. Permit 73563 prohibits sulfur dioxide emissions from the Plant's Residue Compression Flare that exceed 0.01 pounds per hour.

169. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits sulfur dioxide

emissions from the Plant's Residue Compression Flare that exceed 0.01 pounds per hour.

170. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted sulfur dioxide from the Residue Compression Flare at an emission rate greater than 0.01 pounds per hour for a total of 1,817 hours.

171. The dates and times of the violations of the sulfur dioxide hourly emission limit for the Residue Compression Flare are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

172. The dates and times of the violations of the sulfur dioxide hourly emission limit for the Residue Compression Flare after December 21, 2020 are listed in Exhibit 3.

173. DCP violated Permits 73563 and 676A/PSD-TX-1246 when it emitted sulfur dioxide from the Residue Compression Flare during the hours identified in this Count.

174. Each hour during which DCP is in violation of the Residue Compression Flare sulfur dioxide hourly limit in Permits 73563 and 676A/PSD-TX-1246 is a separate violation under the Act.

175. DCP has violated the Residue Compression Flare sulfur dioxide hourly limit at least 1,817 times since January 1, 2016.

I.f. Violations of the Tail Gas Incinerator Sulfur Dioxide Hourly Limit

176. Permit 676A/PSD-TX-1246 prohibits sulfur dioxide emissions from the Tail Gas Incinerator that exceed 481.70 pounds per hour.

177. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted sulfur dioxide from the Tail Gas Incinerator at an emission rate greater than 481.70 pounds per hour for a total of 180 hours.

178. The dates and times of the violations of the sulfur dioxide emission limit of the Tail Gas Incinerator are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

179. DCP violated Permit 676A/PSD-TX-1246 when it emitted sulfur dioxide from the Tail Gas Incinerator during the hours identified in this Count.

180. Each hour during which DCP is in violation of the Tail Gas Incinerator sulfur dioxide hourly limit in Permit PSD-TX-1246 is a separate violation under the Act.

181. DCP has violated the Tail Gas Incinerator sulfur dioxide hourly limit at least 180 times since January 1, 2016.

COUNT II: VIOLATIONS OF HYDROGEN SULFIDE EMISSION LIMITS

182. Paragraphs 1 through 181 are re-alleged and incorporated by reference herein

II.a. Violations of the Acid Gas Flare Hydrogen Sulfide Annual Limit

183. Prior to March 29, 2019, Permit 54944 prohibits hydrogen sulfide emissions from the Acid Gas Flare that exceed 0.07 tons per calendar year during periods of maintenance, startup, and shutdown.

184. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits hydrogen sulfide emissions from the Acid Gas Flare that exceed 0.07 tons per calendar year during periods of maintenance, startup, and shutdown.

185. Permit 676A/PSD-TX-1246 prohibits hydrogen sulfide emissions from the Acid Gas Flare that exceed 0.01 tons per calendar year during routine emissions.

186. Based on DCP's emission event reports, the Plant emitted hydrogen sulfide in excess of 0.07 tons per year from the Acid Gas Flare in 2016, 2017, 2018, 2019, and 2020.

187. The sum of annual hydrogen sulfide emissions DCP reported from the Acid Gas Flare in each of these years is:

Year	Permit Limit in Tons	Total Tons Emitted
2016	0.07	1.76
2017	0.07	0.82
2018	0.07	3.48
2019	0.07	10.91
2020	0.07	2.62

188. DCP violated Permits 54944 and 676A/PSD-TX-1246 when it exceeded the Acid Gas Flare hydrogen sulfide annual emission limit in each of these permits.

189. DCP will continue to exceed the Acid Gas Flare hydrogen sulfide annual emission limit specified in each of these permits after the date this Complaint is filed.

190. Each day on which DCP is in violation of the Acid Gas Flare hydrogen annual emission limit is a separate day of violation under the Act.

191. DCP has violated the Acid Gas Flare hydrogen sulfide annual emission limit for at least 1,774 days since January 1, 2016.

II.b. Violations of Acid Gas Flare Hydrogen Sulfide Hourly Limit

192. Prior to March 29, 2019, Permit 54944 prohibits hydrogen sulfide emissions from the Acid Gas Flare that exceed 72.17 pounds per hour during periods of startup, shutdown, and maintenance.

193. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits hydrogen sulfide emissions from the Acid Gas Flare that exceed 72.17 pounds per hour during periods of startup, shutdown, and maintenance.

194. Permit 676A/PSD-TX-1246 prohibits hydrogen sulfide emissions from the Acid Gas Flare that exceed 0.01 pounds per hour during routine operation.

195. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted hydrogen sulfide from the Acid Gas Flare at an emission rate greater than 72.17 pounds per hour for a total of 129 hours.

196. The dates and times of the violations of the hydrogen sulfide hourly emission limit of the Acid Gas Flare are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

197. DCP violated Permits 54944 and/or 676A/PSD-TX-1246 when it emitted hydrogen sulfide from the Acid Gas Flare during the hours identified in this Count.

198. DCP has violated the Acid Gas Flare hydrogen sulfide hourly limit at least 129 times since January 1, 2016.

II.c. Violation of the Upset Flare Hydrogen Sulfide Annual Limit

199. Prior to March 29, 2019, Permit 76810 prohibits hydrogen sulfide emissions from the Upset Flare that exceed 0.42 tons per calendar year.

200. Prior to March 29, 2019, Permit 54944 prohibits hydrogen sulfide emissions from the Upset Flare that exceed 0.03 tons per calendar year.

201. Based on DCP's emission event reports, the Plant emitted hydrogen sulfide from the Upset Flare in excess of 0.42 tons per year in 2017.

202. The sum of annual hydrogen sulfide emissions DCP reported from the Upset Flare in 2017 is 0.77 tons.

203. DCP violated Permit 76810 and 54944 when it exceeded the Upset Flare hydrogen sulfide annual emission limit specified in each of these permits.

204. Each day on which DCP is in violation of the Upset Flare sulfur dioxide annual emission limit specified in each of these permits is a separate day of violation under the Act.

205. DCP has violated the Upset Flare hydrogen sulfide annual emission limit for at least 141 days since January 1, 2016.

II.d. Violation of the Residue Compression Flare Hydrogen Sulfide Annual Limit

206. Permit 73563 prohibits hydrogen sulfide emissions from the Residue Compression Flare that exceed 0.01 tons per year, calculated by rolling 12-month period.

207. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits hydrogen sulfide emissions from the Residue Compression Flare that exceed 0.01 tons per year, calculated by rolling 12-month period.

208. Based on DCP's emission event reports, the Plant emitted hydrogen sulfide from the Residue Compression Flare in excess of 0.01 tons per year for every 12-month rolling period from January 2016 through March 2021.

209. Between January 2016 and March 2021, the rolling 12-month total of hydrogen sulfide emitted from the Residue Compression Flare varied from a low of 0.60 tons in September 2018 to a high of 3.21 tons in September 2017.

210. The 12-month rolling total, in pounds and in tons, of hydrogen sulfide emitted from the Residue Compression Flare is detailed in Appendix A, Table 1 of the Notice Letter. Exhibit 1.

211. The 12-month rolling total, in pounds and in tons, of hydrogen sulfide emitted from the Residue Compression Flare after December 21, 2020 is detailed in Exhibit 3.

212. DCP violated Permit 73563 and 676A/PSD-TX-124 when it exceeded the Residue

Compression Flare hydrogen sulfide annual emission limit in these permits.

213. DCP will continue to exceed the Residue Compression Flare hydrogen sulfide annual emission limit in Permit 73563 and 676A/PSD-TX-124 after the date this Complaint is filed.

214. Each day on which DCP is in violation of the Residue Compression Flare hydrogen sulfide annual emission limit is a separate day of violation under the Act.

215. DCP has violated the Residue Compression Flare hydrogen sulfide annual emission limit for at least 1,915 days since January 1, 2016.

II.d. Violations of the Residue Compression Flare Hydrogen Sulfide Hourly Limit

216. Permit 73563 prohibits hydrogen sulfide emissions from the Plant's Residue Compression Flare that exceed 0.01 pounds per hour.

217. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits hydrogen sulfide emissions from the Residue Compression Flare that exceed 0.01 pounds per hour.

218. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted hydrogen sulfide from the Residue Compression Flare at an emission rate greater than 0.01 pounds per hour for a total of 1,817 hours.

219. The dates and times of the violations of the hydrogen sulfide hourly emission limits from the Residue Compression Flare are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

220. The dates and times of the violations of the hydrogen sulfide hourly emission limit from the Residue Compression Flare after December 21, 2020 are listed in Exhibit 3.

221. DCP violated Permits 73563 and or 676A/PSD-TX-1246 when it emitted

hydrogen sulfide from the Residue Compression Flare during the emission events that occurred on the dates identified in this Count.

222. DCP has violated the Residue Compression Flare hydrogen sulfide hourly emission limit at least 1,817 times since January 1, 2016.

II.e. Violations of the Tail Gas Incinerator Hydrogen Sulfide Hourly Limit

223. Permit 676A/PSD-TX-1246 prohibits hydrogen sulfide emissions from the Plant's Tail Gas Incinerator that exceed 3.77 pounds per hour.

224. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted DCP emitted hydrogen sulfide from the Tail Gas Incinerator at an emission rate greater than 3.77 pounds per hour for a total of 310 hours.

225. The dates and times of the violations of the hydrogen sulfide hourly emission limit of the Tail Gas Incinerator are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

226. DCP violated Permit 676A/PSD-TX-1246 when it emitted hydrogen sulfide from the Tail Gas Incinerator during the emission events that occurred on the dates identified in this Count.

227. Each hour during which DCP is in violation of the Tail Gas Incinerator hydrogen sulfide annual emission limit in Permit PSD-TX-1246 is a separate violation under the Act.

228. DCP has violated the Tail Gas Incinerator hydrogen sulfide hourly emission limit at least 310 times since January 1, 2016.

COUNT III: VIOLATIONS OF NITROGEN OXIDES EMISSION LIMITS

229. Paragraphs 1 through 228 are re-alleged and incorporated by reference herein.

III.a. Violations of the Acid Gas Flare Nitrogen Oxides Hourly Limit

230. Prior to March 29, 2019, Permit 54944 prohibits nitrogen oxides emissions from the Acid Gas Flare that exceed 2.88 pounds per hour during periods of maintenance, startup, and shutdown.

231. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits nitrogen oxides emissions from the Acid Gas Flare that exceed 2.88 pounds per hour during periods of maintenance, startup, and shutdown.

232. Permit 676A/PSD-TX-1246 prohibits nitrogen oxides emissions from the Acid Gas Flare that exceed 0.04 pounds per hour during routine operations.

233. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted nitrogen oxides from the Acid Gas Flare at an emission rate greater than 2.88 pounds per hour for a total of 594 hours.

234. The dates and times of the violations of the Acid Gas Flare nitrogen oxides hourly emission limit are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

235. The dates and times of the violations of the Acid Gas Flare nitrogen oxides hourly emission limit after December 21, 2020 are listed in Exhibit 3.

236. DCP violated Permits 54944 and 676A/PSD-TX-1246 when it emitted nitrogen oxides from the Acid Gas Flare during the emission events that occurred on the dates identified in this Count.

237. DCP has violated the Acid Gas Flare nitrogen oxides hourly emission limit at least 594 times since January 1, 2016.

III.b. Violations of the Residue Compression Flare Nitrogen Oxides Hourly Limit

238. Permit 73563 prohibits nitrogen oxides emissions from the Residue Compression Flare that exceed 424.44 pounds per hour.

239. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits nitrogen oxides emissions from the Residue Compression Flare that exceed 424.44 pounds per hour.

240. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted nitrogen oxides from the Residue Compression Flare at an emission rate greater than 424.44 pounds per hour for a total of 162 hours.

241. The dates and times of the violations of the Residue Compression Flare nitrogen oxides hourly emission limit are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

242. The dates and times of the violations of the Residue Compression Flare nitrogen oxides hourly emission limit after December 21, 2020 are listed in Exhibit 3.

243. DCP violated Permit 73563 and PSD-TX-676A when it emitted nitrogen oxides from the Residue Compression Flare during the emission events that occurred on the dates identified in this Count.

244. DCP has violated the Residue Compression Flare nitrogen oxides hourly emission limit at least 162 times since January 1, 2016.

COUNT IV: VIOLATIONS OF

VOLATILE ORGANIC COMPOUND EMISSION LIMITS

245. Paragraphs 1 through 244 are incorporated by reference herein.

IV.a. Violations of the Acid Gas Flare Volatile Organic Compound Hourly Limit

246. Prior to March 29, 2019, Permit 54944 prohibited volatile organic compound emissions from the Acid Gas Flare that exceeded 0.20 pounds per hour during periods of maintenance, startup, and shutdown.

247. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits volatile organic compound emissions from the Acid Gas Flare that exceed 0.20 pounds per hour during periods of maintenance, startup, and shutdown.

248. Permit 676A/PSD-TX-1246 prohibits volatile organic compound emissions from the Acid Gas Flare that exceed 0.01 pounds per hour during routine operations.

249. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted volatile organic compound from the Acid Gas Flare at an emission rate greater than 0.20 pounds per hour for a total of 1020 hours.

250. The dates and times of the violations of the Acid Gas Flare volatile organic compound hourly emission limit are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

251. The dates and times of the violations of the Acid Gas Flare volatile organic compound hourly emission limit after December 21, 2020 are listed in Exhibit 3.

252. DCP violated Permits 54944 and/or 676A/PSD-TX-1246 when it emitted volatile organic compound from the Acid Gas Flare during the emission events that occurred on the dates identified in this Count.

253. DCP has violated the Acid Gas Flare volatile organic compound hourly emission limit at least 1,020 times since January 1, 2016.

IV.b. Violations of the Residue Compression Flare Volatile Organic Compound

Hourly Limit

254. Permit 73563 prohibits volatile organic compound emissions from the Residue Compression Flare that exceed 10.05 pounds per hour.

255. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits volatile organic compound emissions from the Residue Compression Flare that exceed 10.05 pounds per hour.

256. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the plant emitted volatile organic compound from the Residue Compression Flare at an emission rate greater than 10.05 pounds per hour for a total of 1,629 hours.

257. The dates and times of the violations of the Residue Compression Flare volatile organic compound emission limit are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

258. DCP violated Permit 73563 and PSD-TX-1246 when it emitted volatile organic compound from the Residue Compression Flare during the emission events that occurred on the dates identified in this Count.

259. DCP has violated the Residue Compression Flare volatile organic compound hourly emission limit at least 1,629 times since January 1, 2016.

COUNT V: VIOLATIONS OF CARBON MONOXIDE EMISSION LIMITS

260. Paragraphs 1 through 259 are re-alleged and incorporated by reference herein.

V.a. Violations of the Acid Gas Flare Carbon Monoxide Hourly Limit

261. Prior to March 29, 2019, Permit 54944 prohibits carbon monoxide emissions from the Plant's Acid Gas Flare that exceed 8.17 pounds per hour during periods of maintenance, startup, and shutdown.

262. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits carbon monoxide emissions from the Acid Gas Flare that exceed 8.17 pounds per hour during periods of maintenance, startup, and shutdown.

263. Permit 676A/PSD-TX-1246 prohibits carbon monoxide emissions from the Plant's Acid Gas Flare that exceed 0.08 pounds per hour during routine operations.

264. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted carbon monoxide from the Acid Gas Flare at an emission rate greater than 8.17 pounds per hour for a total of 717 hours.

265. The dates and times of the violations of the Acid Gas Flare carbon monoxide hourly emission limit are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

266. The dates and times of the violations of the Acid Gas Flare carbon monoxide hourly emission limit after December 21, 2020 are listed in Exhibit 3.

267. DCP violated Permits 54944 and/or 676A/PSD-TX-1246 when it emitted carbon monoxide from the Acid Gas Flare during the emission events that occurred on the dates identified in this Count.

268. DCP has violated the Acid Gas Flare carbon monoxide hourly emission limit at least 717 times since January 1, 2016.

V.b. Violations of the Residue Compression Flare Carbon Monoxide Hourly Limit

269. Permit 73563 prohibits carbon monoxide emissions from the Residue Compression Flare that exceed 843.35 pounds per hour.

270. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits carbon monoxide emissions from the Residue Compression Flare that exceed 843.35 pounds per hour

271. Based on DCP's emission event reports from January 1, 2016 through March 16, 2021, the Plant emitted carbon monoxide from the Residue Compression Flare at an emission rate greater than 8.17 pounds per hour for a total of 70 hours.

272. The dates and times of the violations of the Residue Compression Flare carbon monoxide hourly emission limit of the are listed in Appendix A, Table 2 of the Notice Letter. Exhibit 1.

273. DCP violated Permits 73563 and 676A/PSD-TX-1246 when it emitted carbon monoxide from the Residue Compression Flare during the emission events that occurred on the dates identified in this Count.

274. DCP has violated the Residue Compression Flare carbon monoxide hourly emission limit at least 70 times since January 1, 2016.

COUNT VI: VIOLATIONS OF LIMIT ON HOURS OF FLARE OPERATION

275. Paragraphs 1 through 274 are re-alleged and incorporated by reference herein.

VI.a. Operating Upset Flare in Excess of Thirty Hours Per Year

276. Prior to March 29, 2019, Permit 76810 prohibits the Upset Flare from operating in excess of thirty hours per calendar year.

277. Beginning March 29, 2019, Permit 676A/PSD-TX-1246 prohibits the Upset Flare from operating in excess of thirty hours per calendar year.

278. Based on DCP's emission event reports, the Plant operated the Upset Flare in excess of thirty hours per calendar year in 2016, 2017, 2018, 2019, and 2020.

279. The total number of hours of operation of the Upset Flare per calendar year are

listed in this table:

Year	Total Hours of Operation of the Upset Flare
2016	118.17
2017	237.90
2018	538.98
2019	358.42
2020	119.52

280. The dates and times of the violations of the Upset Flare limit on operation in excess of 30 hours per calendar year are listed in Appendix A, Table 3 of the Notice Letter. Exhibit 1.

281. DCP violated Permits 76810 and 676A/PSD-TX-1246 when it emitted pollutants from the Upset Flare in excess of 30 hours per year on the dates identified in this Count.

282. DCP has violated the Upset Flare operational limit described in this count at least 1,223 times since January 1, 2016.

AIR POLLUTION FROM THE PLANT HARMS PLAINTIFFS' MEMBERS

283. Plaintiffs have members who live, work, and recreate near and downwind from the Plant.

284. Plaintiffs have members who breathe the air that is degraded by the excess and illegal emissions from the Plant.

285. Plaintiffs have members who can see air pollution coming from the Plant.

286. Plaintiffs have members who have aesthetic and recreational interests that are injured by air pollution from the Plant, and who have modified their behavior because of their well-founded concerns and injuries.

287. Plaintiffs have members who live and work near the Plant and who, along with their families, suffer from: asthma, headaches, runny nose, sneezing, coughing, and watering eyes, among other conditions.

288. Plaintiffs have members who suffer from symptoms that are consistent with many of the symptoms caused by exposure to the air pollutants described in paragraphs 108 to 119 above.

289. Plaintiffs' members and their families have had to restrict their outdoor activities as a result of air pollution from the Plant.

290. Plaintiffs' members who live and work near the Plant are deeply concerned by the media reports they have read, seen, or heard regarding releases of harmful pollutants from flaring of natural gas like the flaring at the Plant.

291. Plaintiffs have members who worry that they or their families suffer an increased risk of cancer as a result of the Plant's illegal air pollution.

292. Plaintiffs have members who are aware that the Plant illegally emits pollutants.

293. Plaintiffs have members who are worried that in the future they will breathe illegal emissions from the Plant, and that future illegal emissions will create serious health problems, and interfere with their ability to carry on ordinary activities.

294. Plaintiffs have members who want to breathe as little of the Plant's pollution as possible.

295. Plaintiffs have members who do not want to breathe the Plant's excessive, illegal pollution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court:

1. Declare the Defendant DCP to have violated, and to be in violation of, the federal Clean Air Act and DCP's Goldsmith Gas Plant air permits;
2. Permanently enjoin DCP from operating the Plant except in compliance with the Act and its permits;
3. Order DCP to take appropriate actions to remedy, mitigate, or offset the harm to public health and the environment caused by the violations;
4. Appoint a special master at DCP's expense to oversee DCP's compliance with the Act and DCP's Goldsmith Gas Plant air permits;
5. Assess a civil penalty against DCP for each violation, as provided by 42 U.S.C. §§ 7413(e) and 7604(a) and (g);
5. Order DCP to pay Plaintiffs' reasonable attorneys' fees and costs as provided by 42 U.S.C. § 7604(d); and
6. Grant such other relief as the Court deems just and proper.

Respectfully submitted this 31st day of March, 2021,

/s/ Colin Cox
Colin Cox
Texas Bar No. 24101653
Gabriel Clark Leach
Texas Bar No. 24069516
Environmental Integrity Project
1206 San Antonio St.
Austin, TX 78701
Phone: (832) 316-0580
Fax: (737) 232-6297

Attorneys for Plaintiffs